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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|-------------------------|---------------------|------------------|
| 10/707,540 | 12/19/2003 | Owen Woodruff Bunker II | tuffdoor | 1539 |
| 20350 | 7590 | 11/13/2006 | EXAMINER | |
| TOWNSEND AND TOWNSEND AND CREW, LLP TWO EMBARCADERO CENTER EIGHTH FLOOR SAN FRANCISCO, CA 94111-3834 | | | LAUX, JESSICA L | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 3635 | |

DATE MAILED: 11/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|--------------------------------------|--|--|
| Office Action Summary | Application No. 10/707,540 | Applicant(s) BUNKER, OWEN WOODRUFF | |
| | Examiner Jessica Laux | Art Unit 3635 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 September 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,11,12 and 15-25 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) 24 and 25 is/are allowed.
- 6) ☒ Claim(s) 1,2,8,9 and 15-23 is/are rejected.
- 7) ☐ Claim(s) 11 and 12 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 December 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

Acknowledgment is made of applicant's amendment dated 09/15/2006.

Accordingly claims 1-2, 8-9, 12, 15, 24 are amended. Claims 1-2, 8-9, 11-12, 15-25 are pending and claims 3-7, 10, 13-14, 26 have been cancelled.

Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 2 and 8 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 2:

It is unclear if the "at least one central tubular member" is one of the "at least four tubular member that define a shape for the door" or is in addition to one of the shape defining members.

There is lack of antecedent basis in the claim for the limitation "the outer tubular metal components".

Regarding claim 8: It is unclear if the "at least one vertical and at least one horizontal component" are part of the "at least four tubular member that define a shape for the door" or are in addition to the shape defining members.

Claim Rejections - 35 USC § 102

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 15-16, 21-22 are rejected under 35 U.S.C. 102(e) as being anticipated by Chen (20040035070).

Regarding claim 15: Chen discloses a door for a building, said door system comprising:

a generally rectangular rigid internal frame (35) comprising a plurality of tubular members, wherein each tubular member includes four continuous outer walls that define an open interior (figure 7);

an interior sheath (32) attached to said internal frame;

an exterior sheath (36) attached to said internal frame; and

the exterior edges of said exterior sheath extending beyond the exterior edges of said internal frame, wherein the internal frame positioned between the interior sheath and exterior sheath forms a generally rigid door that resists bowing.

Regarding claim 16: The door of claim 15 wherein said internal frame includes: structural metal components (paragraph 0027).

Regarding claim 21: The door of claim 15 wherein said internal frame includes: a fastening mechanism (41,42) for fastening said internal frame to at least one of said exterior sheath and said interior sheath.

Regarding claim 22: The door of claim 21 wherein said attachment mechanism includes: fasteners (38) securing said interior sheath to said internal frame.

Regarding claim 23: The door of claim 21 wherein said attachment mechanism includes: fasteners (38) securing said exterior sheath to said internal frame.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 17-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chen (20040035070).

Regarding claims 17-20: Chen discloses the door of claim 15 above, but does not disclose that the internal frame includes: structural plastic components, structural wood components, structural polystyrene components or structural composite components, instead Chen discloses that the frame is of aluminum or other materials (paragraph 0027). At the time the invention was made it would have been an obvious matter of design choice to a person of ordinary skill in the art to make the frame of other materials, such as the claimed materials, because applicant has not disclosed that the claimed materials provide an advantage, are used for a particular purpose, or solve a stated problem. Additionally applicant discloses in the specification that any of the claimed materials including metal are acceptable alternatives. One of ordinary skill in the art, furthermore, would have expected Chen's frame and applicant's invention, to

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perform equally well with either the material taught by Chen (and applicant) or the claimed materials because both would perform the same function of forming a rigid door equally well. Therefore it would have been prima facie obvious to modify Chen to obtain the invention as specified in the claims because such a modification would have been considered a mere design consideration which fails to patentably distinguish over the prior art of Chen.

Claims 1, 8-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lynch (20040003560) in view of JL Pease Jr. (3153817).

Regarding claim 1: Lynch discloses a door having four frame members and an interior sheath and an exterior sheath (paragraph 0009) where trim is attached to the planar surface of the exterior sheath (paragraph 0025 and 0028-0029). Lynch does not disclose the specific features of the door construction except that the doors are well known in the art (paragraph 0009). JL Pease discloses a door having:

a rigid internal frame having at least four tubular members that define a shape for the door system (20, 21, 22, 23), wherein each tubular member comprises four continuous outer walls that define an open interior (figure 2 where the open interior is groove element 27);

an interior sheath (24) attached to said internal frame, having an outer periphery defined by at least four outer edges;

an exterior sheath (28) attached to said internal frame, having an outer periphery defined by at least four outer edges;

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wherein at least two of the outer edges of the exterior sheath extend beyond the internal frame (figure 2 where the edges of the sheath extend beyond the frame), and wherein the internal frame positioned between the interior sheath and exterior sheath forms a generally rigid door that resists bowing.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the door with frame components and two skins as taught by Lynch to have the frame and skin construction as taught by Pease since Lynch teaches that the construction of such a door is well known in the art and the door of Pease provides a secure attachment of the skins to the frame.

Regarding claims 8-9: The door system of claim 1 wherein said internal frame includes: at least one vertical component (20) and at least one horizontal component (22); and an attachment mechanism including fastening mechanisms for attaching said at least one vertical component and said at least one horizontal component to each other (Col. 3, lines 1-10).

Allowable Subject Matter

Claim 2 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Claims 11-12 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 24-25 are allowed.

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Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jessica Laux whose telephone number is 571-272-8228. The examiner can normally be reached on Monday thru Friday, 8:30am to 4:00pm (est).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Naoko Slack can be reached on 571-272-6848. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



JL
11/02/2006



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